

City of Fremont 2004 Legislative Policy and Priorities

Adopted 1/13/04

In general, the City of Fremont opposes any legislation or regulations that preempt local authority, negatively impact the City's budget, and/or impose unfunded mandates on the City. The City supports the use of incentives to encourage local government action, rather than the imposition of mandates.

Revenue and Taxation

- **Fiscal reform:** Since 1991, the State has drained more than \$30 billion of local property taxes from cities, counties and special districts—costing cities alone more than \$7 billion over the last 12 years. Staff estimates the City of Fremont loses up to \$41 million each year as a result of State takeaways and voter-passed initiatives. Even in years of budget surpluses, the State has used local funds to finance its constitutional funding obligation to public education, allowing it to increase State general fund spending for other programs at the expense of vital local services.

In FY 2003/04, the State took \$2.1 million of Vehicle License Fee (VLF) revenue from the City of Fremont and threatened to take as much as \$9 million after Governor Schwarzenegger cut the VLF on his first day in office. Although several Legislators introduced bills to reimburse cities and counties for the lost revenue, the Legislature adjourned for the holidays without acting on any of the measures. Governor Schwarzenegger had to declare a fiscal emergency to find the money to backfill cities and counties. (Members of the Legislature and the Legislative Analyst's Office have expressed their doubts about the Governor's legal authority to fund local government in this manner.) With the State facing multi-billion dollar deficits now and in the future, local governments will continue to be vulnerable to new State takeaways.

Local government cannot continue to subsidize the State. Every time Sacramento dips into local coffers to help balance its budget, cities and counties must cut critical local services like public safety and maintenance. The City supports legislation and other efforts to reform the State-local government fiscal relationship and establish a stable revenue base for local governments to plan for future growth and provide needed public facilities and services.

- **Lower threshold for local taxes:** Local governments cannot easily raise revenues. Taxes to fund specific, important services, like park maintenance, public safety, and library hours must be approved by a two-thirds majority of the voters. This high vote requirement makes it extremely difficult for many cities to raise needed monies. The City therefore supports a constitutional amendment to lower the threshold for approval of local taxes to either 55% (the same requirement schools now face) or to a simple majority.
- **E-commerce:** Sales of goods and products over the Internet pose a serious threat to the City's overall sales tax revenue base. At a minimum, the Legislature should enact legislation to close the loophole in current law that allows corporations with a

physical presence, or nexus, in California to evade their sales and use tax obligations by setting up related web-based businesses based outside California.

- **State mandates:** The State places a variety of mandates on local governments, and it is supposed to reimburse those agencies for some of the costs of compliance. Prior to FY 2002/03, the State reimbursed the City for the costs of complying with various local mandates (a requirement placed into the State Constitution by the voters' passage of Proposition 4 in 1979.) In FY 2002/03, the City sought reimbursement for complying with mandates related to animal adoption, domestic violence arrest policies and procedures, firefighters cancer presumption, investment reports, the mandate reimbursement process, booking and fingerprinting for misdemeanors, open meetings act compliance, the Peace Officers Procedural Bill of Rights, rape victims counseling center notices, regional housing needs determination, sex crime confidentiality, sex offenders (Megan's Law), sudden infant death syndrome training for firefighters, and stolen vehicle notification.

Although the City should have received more than \$300,000 from the State for the costs of complying with these programs, the State failed to pay the City any of this money. (In fact, although the State had promised to reimburse cities \$1,000 for each mandate complied with, it failed to remit even this small amount.) The State should immediately review these mandated programs and repeal or suspend them until it has sufficient revenues with which to reimburse local agencies for the cost of compliance.

- **Flexibility in use of funds:** The State has discovered that it has been forced to change rules regarding funds normally devoted to specific purposes to deal with its budget crisis. If the State decides that it must burden local governments with some share of its budget problem, then the impact could be partially mitigated by loosening restrictions on restricted funds. Though it provides no fiscal relief, any rules relating to maintenance of effort (MOE) should be suspended. The City reduced its FY 2003/04 budget by about \$22 million. If the State continues to take local money, the City will be forced to cut even more dramatically. It is possible the City will be unable to meet many MOE requirements regarding public transportation. Just as the State has taken advantage of provisions in Proposition 42 that allow the General Fund to receive funds restricted by the voters to transportation, cities would benefit from having broad discretion over restricted revenue in balancing budget priorities. Gas taxes are the largest source of funds subject to restriction, but the principle applies to all restricted revenues distributed by the State. Until local and State government finance is reformed, restrictions should be lifted to provide the highest levels of discretion to elected representatives to manage the financial affairs of their jurisdictions.

Homeland Security

- **Reimbursement:** Since the events of September 11, cities have had to assume additional staffing and equipment costs for emergency preparedness and public safety. Although local governments are usually the first to respond in cases of natural disasters and acts of terrorism, they receive little financial and technical assistance

from the State and federal governments. The City supports legislation to provide resources for emergency planning, training, exercises, and equipment for emergency workers.

Transportation

- **Transportation funding:** The City supports a constitutional amendment to lower the threshold for approval of sales and use taxes for transportation purposes. Currently, such taxes must be approved by two-thirds of the voters. The City supports lowering the requirement to either 55% (the same requirement schools now face) or to a simple majority.

Land Use

- **Preservation of local land use authority:** The City opposes legislation that would remove or limit local government land use authority.
- **Housing elements:** The City opposes legislation that penalizes local governments for noncompliance with their housing element requirements. Proposed penalties have included loss of gas tax funds and court penalties for noncompliance.

Redevelopment

- **Redevelopment fund flexibility:** Last year, the State took local redevelopment funds to help balance the State's General Fund budget. The State should allow cities similar flexibility. If the effect of planned redevelopment agency Educational Revenue Augmentation Fund shifts is to reclaim the tax increment that would otherwise go to education, the State is essentially making sure that it does not have to backfill revenue shortfalls caused by redevelopment agency tax increment claims. Cities with redevelopment agencies should also be able to pass an ordinance without proceeding through a formal redevelopment plan amendment process to authorize the pass through of tax increment revenue to the city. This will give cities with redevelopment agencies (and thereby property taxes from their redevelopment areas) more general fund operating dollars to use as needed.

Investment in regional transportation facilities, including mass transit and congestion management agency priority projects, should be de facto approved uses for redevelopment funds, inside or outside of project area boundaries. Relaxation of restrictions on strict benefit findings, and elimination of grounds for challenge in this area, would help us. For other agencies, it would help offset the impacts on transportation caused by possible diversions of gas tax to other general fund purposes.

- **Benefits of redevelopment:** The City supports efforts to collect redevelopment cost-benefit and/or return-on-investment data. Because there is little collection of such economic performance data, redevelopment agency funds are vulnerable to redirection and State takeaway. The City supports efforts to determine the number of jobs created and taxes generated from redevelopment agencies.

- **Affordable housing:** Fremont has been aggressive in spurring affordable housing development and policy, such as the recent passage of the Inclusionary Housing Ordinance. Any State takeaways of unencumbered Redevelopment Agency Affordable Housing Funds would be catastrophic for Fremont. There must be a recognition that redevelopment agencies do not typically encumber (contract) housing funds in the same manner one might encumber funds for an equipment purchase. It often takes three to five years to build the equity necessary to complete an affordable housing development. Redevelopment agencies are usually both the first and last funds in—the first for pre-development and feasibility and/or land acquisition, and the last to close the funding gap for whatever is needed to make the project “pencil out”. Affordable Housing Funds should be considered encumbered if the Agency Board has passed a resolution or taken some other formal action to reserve funds for a particular housing development or program.

Employee Relations

- **Mandated employee benefits:** Decisions about employees’ benefits should be made at the local level, through the collective bargaining process, not mandated by the State. Therefore, the City opposes legislation mandating new or enhanced local employee benefits because such benefits can impose financial costs and administrative burdens on local governments. The City also opposes legislation eliminating employee benefit options.
- **4850 benefits:** Under current law (Labor Code Section 4850), public safety employees who are totally temporarily disabled by injury or illness on the job are entitled to a leave of absence at full salary, tax free, for up to one year. The City opposes legislation to extend that timeframe.
- **Workers' compensation:** The City opposes any new or additional workers’ compensation benefits and supports legislation to further reform the system and lower employer costs.
- **Second tier PERS benefits:** Existing law allows a CalPERS local contracting agency to amend its contract with CalPERS in order to create a second tier of benefits, subject to certain restrictions. The second tier can only apply to employees who are hired after the contract effective date or who change membership classification after the contract amendment date. Existing law also prohibits local agencies from amending their contracts with CalPERS to reduce employee benefits for existing employees. However, a second tier, which applies to prospective employees only, may provide a lesser or different level of optional benefits than exists for employees in the first tier. The City opposes legislation to eliminate a local contracting agency's ability to reduce or modify benefits, without employee consent, for new employees of the agency.
- **Mandatory Social Security coverage:** Various federal commissions and entities have recommended mandatory Social Security coverage for newly hired local government employees. This is, at best, a short-term solution to a federal government

problem and would result in additional salary costs to both the City and newly hired employees. Public plans (e.g., CalPERS) were established before Social Security and continue to serve employees well. Social Security—not public plans—has lived beyond its means, resulting in the current actions to use federal budget surplus, among other things, to “save” Social Security, and the need to continue to find new revenues (e.g., bringing newly hired local government employees into the system).

In addition to the potential of mandatory Social Security coverage, current law provides for reduced Social Security benefits if an employee retires from a local agency and is also eligible for Social Security benefits for work performed at another employer that participated in Social Security. This occurs through either the Windfall Elimination Provision (WEP), because of the employee’s own Social Security account, or the Government Pension Offset (GPO), because of the employee’s access to the account of a spouse or ex-spouse. Both of these provisions need to be modified so that City employees are not penalized for work performed in addition to their local government service.

Energy

- **Power plant incentives:** The City supports in situs attribution of power plant property taxes, as opposed to Board of Equalization assessment and allocation to all jurisdictions in the County. The City also supports legislation to provide a financial bonus to the jurisdiction with the land use authority to site a power plant facility.
- **Rolling blackouts:** The City supports legislation to allow more flexibility to implement local alternatives to rolling blackouts. PUC tariffs only allow exemption from blackouts if everyone on a power circuit agrees to reduce power consumption (or load) within fifteen minutes. If the circuit does not meet the target, severe pricing penalties are applied. The City supports legislation allowing the City to sponsor cooperative efforts to get energy users to either drop load or shift to electricity supplied by peaker power plants or distributed generation, without having the City face punitive pricing. The City would coordinate efforts, but it wouldn’t be the “main customer” facing penalties if the target is missed.

Public Safety

- **Fire protection in schools:** The City supports requiring the installation of automatic fire sprinkler systems in new and remodeled schools. The City has a comprehensive fire sprinkler ordinance that requires fire sprinkler systems to be installed in all new buildings and existing apartment buildings with internal corridors accommodating ten or more apartments. Because public schools fall under the State’s jurisdiction, however, this life- and property-saving ordinance does not apply to them.
- **COPS Funding:** The City supports funding for the Citizens’ Option for Public Safety (COPS) program, which helps pay for police officer salaries and benefits.

Environmental Services

- **Recycling:** The City supports continuation of existing Source Reduction & Recycling Act (AB 939) waste diversion requirements. Local jurisdictions should be considered in compliance with AB 939 goals if they have met the waste diversion goals or if they are making a good faith effort to implement applicable Source Reduction and Recycling Element (SRRE) programs.
- **Local autonomy:** The City opposes legislation that preempts local planning decisions regarding solid waste facility siting, preempts local solid waste and AB 939 fee-setting authority, or imposes taxes or fees on local solid waste programs to fund State programs not directly related to solid waste management.
- **Litter control and abatement:** The City supports legislation to address litter control and abatement problems in California, including measures to expand the enforcement authority of the California Highway Patrol to include enforcement measures for any vehicle generating litter on public roads; provide for effective enforcement of anti-litter laws; implement a strong statewide anti-litter outreach campaign; and provide for cleanup of littered areas.
- **Producer responsibility:** The City supports legislation to require manufacturers to assume financial and/or physical responsibility for the costs of collecting, processing, recycling, or disposing of products at end-of-life, especially products that create significant economic burdens on local government for end-of-life management because high volumes of the material exist in the waste stream, or because the nature of the product makes it difficult to manage in the current integrated waste management system; and computer and electronic products that incorporate hazardous materials requiring special handling.

City of Fremont 2004 Funding Priorities

Adopted 1/13/04

- 1. Washington Boulevard/Paseo Padre Parkway grade separations:** The City is leading the project team working to design and construct a railroad overpass at Washington Boulevard and an underpass at Paseo Padre Parkway. These two grade separations will help relieve local congestion and will facilitate the BART extension to Warm Springs. The City is contributing the majority of funding to this project. **Estimated shortfall – \$5-10 million**
- 2. Mission Boulevard/I-880 Interchange improvement project:** The City is working with the Alameda County Transportation Authority (ACTA) on a project to improve the Mission Boulevard interchange. The Phase IA improvements include the construction of all improvements for the Mission/I-880 interchange. Phase IB includes widening Mission Boulevard and constructing the Kato Road ramps. This phase will create additional capacity on Mission Boulevard and will replace the existing Kato ramps removed in Phase IA. Phase II includes a grade separation at Warren Avenue to accommodate the future BART extension to San Jose. This grade separation eliminates the Union Pacific Railroad grade crossings that are routinely blocked by freight trains. It also facilitates the BART extension to San Jose. The City has committed \$64.6 million to the project, plus the value of the right-of-way the City purchased to prevent development. Initially, ACTA was to reimburse the City for the cost of the right-of-way. Now, the City is donating this right-of-way to the project, thereby increasing the City's contribution to the project. **Estimated shortfall Phase IA – None. Estimated shortfall Phase IB – \$26 million. Estimated shortfall Phase II – \$14 million**
- 3. Irvington BART Station:** As far back as 1979, plans for the Warm Springs BART Extension have assumed the extension would include an Irvington BART Station located near the intersection of Washington Boulevard and Osgood Road. In the 1980's, when the Metropolitan Transportation Commission (MTC) established funding priorities for new rail transit starts and extensions in MTC Resolution 1876, it was agreed that BART extensions to Pittsburgh, Dublin, and Warm Springs would all add two new stations. However, due to funding constraints, BART's supplemental EIR included the Irvington Station as an optional station. BART is now moving forward with the extension to Warm Springs with an optional Irvington Station, and BART and the Santa Clara Valley Transportation Authority are working together on the BART extension to San Jose and Santa Clara. To date, no funding has been identified for an Irvington BART Station. **Estimated shortfall – \$76 million**
- 4. I-680/I-880 cross connectors:** The City is involved in discussions regarding the cross connectors between I-680 and I-880. VTA has completed an evaluation of the short-term and long-term projects encompassed by the cross connector study. The short-term improvements include: the widening of Auto Mall Parkway to six lanes (est. cost \$20-\$25 million); widening Fremont/Grimmer Boulevards at grade to six lanes (est.

cost \$50-\$60 million); and improving Kato Road to include a new I-880 overcrossing to Fremont Boulevard (est. cost \$30-\$35 million). The City has not identified its contributions, if any, to these projects. **Estimated shortfall – \$100-\$120 million**

5. **Sidewalk repair:** The City's infrastructure, in many areas, is over forty years old, and the street trees are just as old, or older. The roots from these street trees can displace pavement and cause hazardous conditions for pedestrians and cyclists. The City now provides temporary patches and has a long-term plan to fix sidewalks. However, the needs exceed the City's available resources. As the City ages, this problem will grow, unless we can secure funds to increase our capacity to deal with the street trees and sidewalks. **Current estimated shortfall – up to \$20 million**
6. **Street/Pavement rehabilitation:** The City's streets are our highest valued capital asset, with an investment of nearly \$1 billion. As any street system ages and traffic loading increases (caused by events such as changes in bus routes and the use of heavier waste hauling and delivery trucks), the long-term maintenance needs increase. The City's computer-based Pavement Management System (PMS) has identified approximately \$68 million in needed pavement maintenance over the next five years. That level of funding would bring the entire street system up to the desired 85 Pavement Condition Index (PCI). The City only has funding for \$3.8 million in overlay projects over the next two years. **Estimated shortfall – up to \$68 million**